

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

MARK A. BUZA,
Plaintiff
vs.
SAN FRANCISCO CO.
DEPARTMENT, Et Al
Defendant

Case No: C 10-2404 SBA

ORDER DENYING PLAINTIFF'S MOTION FOR CHANGE OF VENUE AND MOTION FOR RECUSAL

SAN FRANCISCO COUNTY SHERIFF'S
DEPARTMENT, Et Al.,

Plaintiff commenced this action pro se, pursuant to 42 U.S.C. § 1983, alleging, in entirely conclusory terms, that the San Francisco County Sheriff's Department violated his civil rights. On June 7, 2010, the Court dismissed the complaint with leave to amend. Plaintiff has until June 28, 2010 to file his amended complaint.

On June 22, 2010, Plaintiff filed a “Motion in Opposition to Court Ordered Venue Change” in which he seeks to have the action transferred to the San Jose Division of this Court. Venue in the San Jose Division is proper only where the action arises “in the counties of Santa Clara, Santa Cruz, San Benito or Monterey....” (Civ. L.R. 3-2(e).) Since this action arises from an incident in San Francisco County, assignment of the case to the Oakland Division is appropriate. (Id. 3-2(d).)

Plaintiff also has filed a motion for recusal on the ground that the undersigned previously was a member of the Oakland Police Department (“OPD”). Section 455 of Title 28 U.S.C. provides in pertinent part that: “(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might be reasonably questioned.” 28 U.S.C. § 455(a). The standard for a finding of perceived bias

1 under Section 455(a) is “whether a reasonable person with knowledge of all the facts would
2 conclude that [her] impartiality might reasonably be questioned.” In re Focus Media, Inc., 378
3 F.3d 916, 929 (9th Cir. 2004) (internal quotations and citation omitted). This is an objective
4 standard from the viewpoint of a thoughtful and well-informed observer, not a “hypersensitive,
5 unduly suspicious person.” Hook v. McDade, 89 F.3d 350, 354 (7th Cir.1996).

6 Plaintiff has failed to present any legitimate basis for recusal. The mere fact the defendant
7 is a law enforcement agency does not even remotely establish a cognizable basis for
8 recusal under § 455. C.f., Sierra Club v. Simkins Indus., Inc., 847 F.2d 1109, 1117 (4th Cir.
9 1988) (“litigants are entitled to a judge free of personal bias, but not to a judge without any
10 personal history before appointment to the bench”). The undersigned ended her employment
11 with the OPD over thirty years ago, well before any of the events forming the basis of this
12 action occurred. In addition, Plaintiff ignores that OPD is entirely separate and apart from the
13 defendant in this action, the San Francisco County Sheriff’s Department. In short, no
14 reasonable person with knowledge of all the facts would conclude that this Court’s impartiality
15 might reasonably be questioned. Accordingly,

16 IT IS HEREBY ORDERED THAT Plaintiff’s motions to change venue and motion for
17 recusal are DENIED.

18 IT IS SO ORDERED.

19 Dated: June 22, 2010



SAUNDRA BROWN ARMSTRONG
United States District Judge

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2 UNITED STATES DISTRICT COURT
3 FOR THE
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5 BUZA et al,

6 Plaintiff,

7 v.

8 SAN FRANCISCO COUNTY SHERIFF'S
9 DEPARTMENT et al,

10 Defendant.
11 _____ /
12

13 Case Number: CV10-02404 SBA
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15 **CERTIFICATE OF SERVICE**
16

17 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
18 Court, Northern District of California.

19 That on June 23, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
20 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
21 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
22 located in the Clerk's office.

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28 Mark S Buza
1060 Howard Street
San Francisco, CA 94103

Dated: June 23, 2010

Richard W. Wieking, Clerk

By: LISA R CLARK, Deputy Clerk